

AGREEMENT

**between the Department of Defense of the United States of America
and the Ministry of Health of Ukraine**

**Concerning Cooperation in the Area of Prevention of Proliferation of
Technology, Pathogens and Expertise that could be Used in the Development of
Biological Weapons**

The Department of Defense of the United States of America ("U.S. Department of Defense") and the Ministry of Health of Ukraine, hereinafter referred to jointly as the Parties,

desiring to implement the Agreement between the United States of America and Ukraine Concerning Assistance to Ukraine in the Elimination of Strategic Nuclear Arms, and the Prevention of Proliferation of Weapons of Mass Destruction, signed October 25, 1993, as extended and amended (hereinafter the Umbrella Agreement), as it pertains to the prevention of proliferation of technology, pathogens and expertise that could be used in the development of biological weapons,

recognizing the existing cooperation between the Science and Technology Center Ukraine and the Lviv Scientific Research Institute of Epidemiology and Hygiene, and

noting that pursuant to Article II of the Umbrella Agreement, the Ministry of Health of Ukraine has been designated by the Government of Ukraine (Cabinet of Ministers) as the executive agent to implement this Agreement,

HAVE AGREED AS FOLLOWS:

Article I

1. In order to assist Ukraine in preventing the proliferation of technology, pathogens, and expertise that are located at the Scientific Research Institute of Epidemiology and Hygiene (Lviv), the Ukrainian Scientific Research Anti-Plague Institute (Odessa), the Central Sanitary Epidemiological Station (Kyiv), and other facilities in Ukraine identified by the Ministry of Health of Ukraine, and that could be used in the development of biological weapons, the U.S. Department of Defense shall provide assistance to the Ministry of Health of Ukraine at no cost, subject to

the availability of funds appropriated for this purpose, in accordance with the terms of this Agreement.

2. The Ministry of Health of Ukraine shall use all material (including equipment, instruments, and other supplies), training of personnel and services provided in accordance with this Agreement exclusively for the purpose of preventing the proliferation of technology, pathogens and expertise that are located at facilities in Ukraine and that could be used in the development of biological weapons.

3. This Agreement and all activities undertaken in accordance with this Agreement shall be subject to the provisions of the Umbrella Agreement. In the event of any discrepancies between this Agreement and the Umbrella Agreement, the provisions of the Umbrella Agreement shall prevail.

4. The Ministry of Health of Ukraine shall provide to the U.S. Department of Defense a list of facilities in Ukraine that may receive assistance under this Agreement, establishing the Ministry of Health of Ukraine's order of priority for such assistance.

Article II

1. Each party to this Agreement shall have the right, following written notification to the other party, to delegate responsibilities for the implementation of this Agreement to other organizations, departments, agencies, or units of their respective governments in accordance with the national laws of that party.

2. To coordinate activities under this Agreement, each party to this Agreement shall have the right, following written notification to the other party, to designate technical representatives for material, training and services provided pursuant to this Agreement.

Article III

1. The total cost to the U.S. Department of Defense of all material, training and services provided pursuant to this Agreement and the associated expenses shall be up to fifteen (15) million U.S. dollars.

2. Assistance provided by the U.S. Department of Defense to the Ministry of Health of Ukraine under Article I, Paragraph 1 may include, but is not limited to, cooperative biological research, biological threat agent detection and response, and

assistance for improving biological material protection, control and accountability in order to reduce the risk of theft or unauthorized use of dangerous pathogens located at the facilities in Ukraine referred to in Article I, Paragraph 1.

3. Pursuant to the terms of this Agreement, the U.S. Department of Defense may, at its discretion, provide the Ministry of Health of Ukraine with other types of assistance subject to the written agreement of the Parties.

Article IV

1. The Ministry of Health of Ukraine shall assist the U.S. Department of Defense during the implementation of this Agreement.

2. The Ministry of Health of Ukraine shall coordinate with appropriate Ukrainian ministries and other government agencies and organizations in order to ensure that:

(a) *material provided under this Agreement is afforded priority processing to allow prompt delivery to its ultimate destination within Ukraine; and*

(b) appropriate security measures are provided for the U.S. Department of Defense representatives, contractors, and equipment at those facilities associated with activities under this Agreement.

3. The Ministry of Health of Ukraine shall facilitate the examination by the appropriate Ukrainian ministries and other government agencies and organizations of all material received pursuant to this Agreement and provide confirmation of the acceptability of such material to the U.S. Department of Defense within ten days of receipt of the results of such examinations. Material failing to conform to agreed specifications shall be returned, at the expense of the U.S. Department of Defense, to the U.S. Department of Defense through the Embassy of the United States of America in Kyiv within thirty days of receipt for replacement.

4. The Ministry of Health of Ukraine or its designated agent shall consolidate and store all dangerous pathogens at secure centralized laboratories designated in writing by the Parties that have received or are receiving the U.S. Department of Defense assistance under this Agreement (hereinafter centralized laboratories). The U.S. Department of Defense may provide molecular diagnostics capabilities, improved electronic communications, and equipment for the safe and timely transport of field pathogen samples to the centralized laboratories.

5. In order to support the joint efforts of the Parties to prevent the proliferation of dangerous pathogens and related expertise and to minimize potential

biological threats, the Ministry of Health of Ukraine shall transfer to the U.S. Department of Defense requested copies of dangerous pathogen strains collected in Ukraine for cooperative biological research in the centralized laboratories in Ukraine and in U.S. Department of Defense-designated laboratories in the United States for prophylactic, protective or other peaceful purposes. Details of such cooperation shall be defined in annual Joint Requirements and Implementation Plans developed in accordance with paragraph 7 of Article IV of this Agreement or in an implementing arrangement in accordance with Article VI of this Agreement. The Ministry of Health of Ukraine shall share with the U.S. Department of Defense data generated by the infectious disease surveillance network of the Ministry of Health of Ukraine or its designated agents in order for the Parties to better detect, diagnose and monitor disease outbreaks in Ukraine.

6. Dangerous pathogens placed in centralized laboratories shall remain in those laboratories for the duration of the Umbrella Agreement. The Ministry of Health of Ukraine shall immediately notify the U.S. Department of Defense in writing about the temporary removal of dangerous pathogens from centralized laboratories due to emergency situations. The Ministry of Health of Ukraine shall return all pathogens removed from a centralized laboratory to that centralized laboratory or another centralized laboratory as soon as possible.

7. The Ministry of Health of Ukraine or its designated agent shall cooperate with the U.S. Department of Defense to develop annual Joint Requirements and Implementation Plans describing the underlying assumptions, requirements and responsibilities for implementation of this Agreement, and the Parties or their designated implementing agents shall sign these plans.

Article V

1. In accordance with Article X of the Umbrella Agreement, the U.S. Department of Defense has the right to audit and examine material, training of personnel, and services provided in accordance with this Agreement to facilities in Ukraine for the duration of the Umbrella Agreement. Such audits and examinations may be conducted consistent with the Implementing Arrangements for the Conduct of Audits and Examinations of United States Assistance to Ukraine in Connection with the Agreement between the United States and Ukraine of October 25, 1993.

2. In addition to the rights provided by Article X of the Umbrella Agreement, the U.S. Department of Defense representatives shall also have the right to participate in all aspects of implementation of contracts and related activities at facilities in Ukraine pursuant to the terms of this Agreement.

Article VI

As appropriate, the Parties may enter into additional implementing arrangements or agreements to carry out the provisions of this Agreement. In the case of any inconsistency between this Agreement and any such arrangements or agreements, the provisions of this Agreement shall prevail.

Article VII

In order to facilitate the provision of assistance in accordance with the terms of this Agreement, and without prejudice to the U.S. Department of Defense's right to conduct audits and examinations in accordance with Article V of this Agreement:

1. The information transmitted under this Agreement or developed as a result of its implementation and considered by the U.S. Department of Defense as "sensitive" or by the Ministry of Health of Ukraine as "restricted information" (in Ukrainian: "конфіденційна інформація") must be clearly designated and marked as such.

2. "Sensitive" information or "restricted information" shall be protected in accordance with the laws of the state of the party receiving the information.

A) According to the laws and regulations of the United States of America, such information shall be treated as "sensitive information of a foreign government", and shall be withheld from public disclosure to the extent permitted by the laws and regulations of the United States of America. Any such information transmitted by the Ministry of Health of Ukraine to the U.S. Department of Defense must be accompanied by a written declaration from the Government of Ukraine which states that it is withholding such information from public disclosure and that the information is provided to the Government of the United States of America on the condition that it not be released to the public without the approval of the Government of Ukraine. In this written declaration, the Government of Ukraine shall specify the date until which the information provided should be withheld from public disclosure by the Government of the United States of America. That date may be extended by the U.S. Department of Defense, to the extent permitted by the laws and regulations of the United States of America, in accordance with a request by the Government of Ukraine.

B) Information marked or designated by the U.S. Department of Defense as "sensitive" should be withheld from public disclosure by the Government of Ukraine.

3. The Parties shall minimize the number of persons who have access to information that is designated "sensitive" or "restricted information" in accordance with Paragraph 2 of this article.

4. During implementation of this Agreement, access to certain information and technology considered "state secret of Ukraine" may be provided to the U.S. Department of Defense in accordance with the provisions of the "Law of Ukraine on State Secret."

Article VIII

This Agreement shall enter into force upon signature and shall remain in force for the duration of the Umbrella Agreement. This Agreement may be amended by the written agreement of the Parties and may be terminated by either party upon written notification to the other party ninety days prior to its intention to do so, provided that the provisions of Article IV, Paragraph 6 shall continue in force for the duration of the Umbrella Agreement.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective governments, have signed this Agreement.

DONE AT Kyiv, this 29 day of August, 2005, in duplicate, each in the English and Ukrainian languages, both texts being equally authentic.

For the Department of Defense of
the United States of America



For the Ministry of Health of
Ukraine

